



T. GOVERNMENT ENTITIES  
DIVISION

Date: OCT 30 2001

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

NO PROTEST RECEIVED  
Release to Manager, EO Determinations - Cincinnati

DATE: [REDACTED]

SURNAME: [REDACTED]

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you have failed to establish that you qualify for exemption under that section. The basis for our conclusion is set forth below.

Our records indicate that you were incorporated under the laws of the [REDACTED] on [REDACTED]. Your Articles of Organization stated that your purposes, among others, were to promote the cultural and religious freedoms of Native American Indians and to provide for the spiritual, mental, emotional, and physical well being of the Native American Indian. In a letter dated [REDACTED] the Service recognized you as exempt as a social welfare organization under section 501(c)(4) of the Code.

On [REDACTED], you stated your Articles of Incorporation to provide that your purposes are:

- (1) to help foster, encourage, and promote the improvement of the condition of all Native Americans, especially those that may be incarcerated, on parole, or on probation;
- (2) to promote physical and cultural improvement, growth and development, self-respect, self-confidence, and usefulness of incarcerated Native Americans and others;
- (3) to eliminate discrimination suffered by incarcerated Native Americans and to develop channels of communication which will assist incarcerated Native Americans to maximize self-realization and enrichment of their lives and enhance life fulfillment;
- (4) to study, on a non-partisan basis, proposed legislation, rules, or regulations introduced on the Federal, Commonwealth, or local legislative or administrative body

[REDACTED]

which may affect the social, economic, educational, or physical welfare of incarcerated Native Americans or others; and

- (5) to develop public policy proposals designed to improve the quality and quantity of life of the incarcerated Native Americans and others especially in areas of conditions of confinement, employment training, sentence structures, commutation procedures, and health.

On [REDACTED] you filed Form 1023, applying for recognition of exemption under section 501(c)(3) of the Code. In your application, you state that your activities consist of job training - automotive mechanics, welding, and substance abuse.

In your letter dated [REDACTED] you explained that your educational programs had not been developed at that time including where they would be held, because you were still in the planning stages of the process for your future needs as your membership grew and expanded. You state that your objective is to provide programs and projects that assist the ex-offender in meeting his or her needs in order to enhance his or her potential for reintegration as a law-abiding productive citizen.

In your letter dated [REDACTED] you state that your programs of substance abuse, anger management, and domestic violence have not yet been started, but will be conducted at the [REDACTED]. You state that your programs will be run by "elders" who will have successfully participated and completed programs offered to the general public; once these programs are established, your goal is to hire a certified trainer/supervisor to monitor and certify the leaders of each program. You also state that while the educational programs you will offer will be diverse, you are not able to provide a complete, detailed description of your educational programs and/or workshops because you have no specific data available at this time. You further state that you will provide "counseling" services to your members, as the [REDACTED] Department of Mental Health is responsible for these services by statute.

You state that you will work with federal, State, and local agencies to locate abandoned and condemned properties to rehabilitate them as transitional housing for ex-offenders. Once the properties are located, you will hire the necessary contractors to repair all of the buildings' inner structures such as windows, doors, walls, floors, roof, electrical wiring, plumbing and heating units, etc., in order to meet state and local health codes. After the renovation process has been completed and inspected by all agencies for occupancy, you will rent the units to low/moderate income families.

The envelopes in which you send your communications to us all have the following stamp on them:

This correspondence is forwarded from a [REDACTED]  
The contents may not have been evaluated and the Department of Correction is not responsible for the substance or content of the enclosed material.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for religious, charitable, or educational purposes so long as no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the Internal Revenue Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Rev. Rul. 67-150, 1967-1 C.B. 33, holds that an organization that furthers the rehabilitation of ex-convicts and pariahs in order to make them self-supporting and useful citizens is exempt under section 501(c)(3) of the Code as a charitable and educational organization. The organization has a variety of programs, including financial assistance and programs to make ex-convicts and pariahs into better citizens.

Rev. Proc. 90-27, 1990-1 C.B. 54, sets forth procedures with regard to applications for recognition of exemption under section 501 of the Code. Section 5 of the revenue procedure states as follows:

01 A ruling or determination letter will be issued to an organization, provided its application and supporting documents establish that it meets the particular requirements of the section under which exemption is claimed. Any oral representation of additional facts or modification of facts as represented or alleged in the application for a ruling or determination letter must be reduced to writing over the signature of an authorized individual.

02 Exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued. In those cases where an organization is unable to describe fully its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

[REDACTED]

It is evident that your officers, and the persons who are to effectuate your proposed purposes, are inmates at a [REDACTED]. It is also evident that your officers are constrained from performing certain activities under State law. It must be assumed that you and your officers are not free to perform activities outside the facility in which your officers are incarcerated, such as locating abandoned and condemned property and hiring the necessary contractors for repair in order to meet State and local health codes. It must also be assumed that any activities you and your officers perform inside the facility can only be performed under the direction, auspices, and control of the Department of Correction, [REDACTED] rather than at your independent discretion. In fact, you have stated that you will not provide "counseling" services to your members, one of your proposed activities, as the [REDACTED] Department of Mental Health is responsible for these services by statute. You have not provided any documentation that you will be able to perform any of the activities you are proposing that would qualify you for exemption under section 501(c)(3) of the Code.

For these reasons, we are unable to conclude that you qualify for exemption under section 501(c)(3) of the Code. You have failed to demonstrate that you will be able to conduct any of the activities you have described. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code. Our letter dated November 18, 1998, however, recognizing you as exempt from federal income tax under section 501(c)(4), remains in effect.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service,

[REDACTED]

TE/GE Customer Service, P.O. Box 508, Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with section 6104(c) of the Code.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service  
T:EO:RA:T:2-CCH  
1111 Constitution Ave, N.W.  
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

(signed) Terrell M. Berkovsky

Terrell M. Berkovsky  
Manager, Exempt Organizations  
Technical Group 2

[REDACTED]

[REDACTED]